Public Works (1903) Department.

G.O., No. 1078 J

DATED 20 Novr 1903.

[Despatch Abstract.]

Appeal Suit

The copy of the ~~decree~~ and judgment of the Dt. Judge of Godavari, dismissing the —— of one Potula Rama Row against Govt, recorded, and the charges incurred by the S.E. I circle, in connection with the suit, sanctioned.

P. W. 25.
000—21-7-03.

Indexed. 24/11

19/11/03

BACK PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
Go. 4408			31-5-01				

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

5,000—18-10-02.

Public Works (1903) Department.

CURRENT No. ~~160 GD~~ 11096

1678

From

[Name] W. C. De Morgan Esquire M.I.C.E

[Designation] Superintending Engineer I circle

[Station] Waltair

No. 2736 G.E

Dated 22. 10. 1903.

Enclosures { Plans / Others 5 } Total. 5

Spare copies

Received 24. 10 1903.

Registered 24. 10 1903.

Passed on, by—

Registering Clerk 5-11- 1903

U. R. Clerk 190 .

Referencer 190 .

Record Supdt. 190 .

Drafting Officer 190 .

SUBJECT.

Aurangabad lanka. Submits copies of Appeal Judgement + decree regarding suit of —— + 2 bills of costs &c for obtaining Government sanction for payment.

BACK PAPERS. Papers

FURTHER PAPERS.

24/10/03

3

To

The Chief Engineer / Secretary to Government, Public Works Department.

Sir,

[V. C. P.—No. 243—9-1-1902.—500.]

Superintending Engineer's Office, I Circle,

Waltair 21-10-'03. 1902.
Camp 22

No. 2736 G.E

FROM

W.C.De Morgan Esquire, M.D.C.E.,
SUPERINTENDING ENGINEER,
FIRST CIRCLE.

To

THE CHIEF ENGINEER,
FOR IRRIGATION.

Enclosures. 5

SIR,

Hay I

With reference to para 1 of G.O. No. 1106 J dated 22-9-'03, sanctioning an appeal suit in connection with the leasing of Aurangabada Lanka, I have the honour to bring to your notice that the appeal filed on behalf the Secretary of State against the decision of the additional District Munsiff Rajahmundry in the suit brought by Potula RamaRow was heard by the District Judge on the 7-8-'03 and allowed with costs.

2. In this connection, I enclose two bills, one amounting to Rs. 41-8-4 on account of pleader's fees in Appeal and the other for Rs. 40-12-0 being costs incurred in the suit and supported by Court's certificate for favour of Government sanction.

3. Copies of the appeal decree & Judgment are enclosed for perusal & return.

Enclo: 2. Bills
1. Certificate.
1. Copy of Appeal Judgment.
1. .. of Appeal decree.

I have the honour to be,

Sir,

Your most obedient servant,

21.10.3
W.C.Morgan

SUPERINTENDING ENGINEER, I CIRCLE.

In the Court of the Sub Court of [illegible]

Godavari at Rajahmundry.

To day the 1st day of April 1903

Present: [illegible] Esq. [illegible]

[illegible]

R160 GD/03

[illegible]

In the Court of the District Judge of Godavari at Rajahmundry.

Friday the 7th day of August 1903.

Present:- F. H. Hamnett Esqr., District Judge.

Appeal Suit No 420 of 1902

Between:-	The Secretary of State for India in Council represented by the Superintending Engineer, 1st Circle, Waltair --	Appellant (Deft.)
and:	Patula Rama Row of Rajahmundry ____	Respdt (Pltff)

Appeal from the decree of the Court of the Additional District Munsiff of Rajahmundry & Ellore, dated the 27th day of March 1902 in Original Suit No 302 of 1901 OS ~~330~~ 331 of 01 on the file of the District Munsiff's Court of Rajahmundry.

Grounds of Appeal

1. The Lower Court has erred in finding that 8 acres ~~of~~ out of the portion not delivered to Plaintiff was fit for cultivation.
2. The Lower Court is entirely wrong in holding that Exhibit B_2 supports such an inference.
3. The lower Court failed to notice that there was no explanation for the delay in bringing the suit.
4. The evidence in the case shows that

Plaintiff was vexatiously claiming that the whole lanka was leased to him so that he may graze his cattle on the uncultivable land and Slush.

5. The evidence for Plaintiff is interested and entirely unworthy of belief.

6. The Lower Court should have believed the evidence of Defendants' 2d witness who did not merely estimate but actually measured the lanka.

7. The Lower Court should have found that at the portion marked 3 in the sketch a continuous block of land measuring 5 acres was first sold to Plaintiff and that Defendant only treated Plaintiff fairly when he allowed him to cultivate the further available extent of 11 acres cultivable land in continuation of it.

8. The Lower Court should have observed that Defendant had no motive to keep back any cultivable land as the lanka according to evidence is an abandoned one.

9. The lower court should have found that Plaintiff having executed a muchilaka is estopped from maintaining this suit.

10. The damages awarded by Plaintiff are excessive.

Decree:- This appeal coming on for final hearing this 7th day of August 1903 upon perusing the grounds of appeal, the grounds of objection memo, the judgment and decree of the lower court and the material papers in the suit and upon hearing the arguments of Mr C. Venkatachellam, Vakil for appellant and Mr S. Bhima Sankara Row, Pleader for Respondent, this court reversing the decree of the lower Court dated 27th March 1902 doth order and decree that the Plaintiff's suit be and the same hereby is dismissed, with costs in this and in the lower court and that the objection memo of the respondent also dismissed with costs.

The costs of this appeal amounting to Rs. 86-15-4 are to be paid by the Respdt: to the Appellant.

The costs of the original suit amounting to Rs 43-0-0 are to be paid by the Plaintiff to Defendant.

Respondents' costs in this court are Rupees 22-0-4

Given under my hand and the seal of the Court this 7th day of August 1903.

(Sd) F. H. Hamnett.
District Judge

Value of Claim Rs 800-0-0
Do appeal Rs. 430-7-5
Do objection memo Rs 400-0-0

Suit to recover Rs 800/- for damages owing to Plaintiffs not being given possession of about 8 acres of Arnarangabadu Lanka leased out to him by the Executive Engineer, Eastern Division, Dowlaishwaram.

N.B. The parties should apply as soon as possible for the return of all the exhibits which they may wish to preserve as the record will be liable to be ~~destroy~~ destroyed after three years or after six years from the date of the disposal of the case in which the exhibit was filed according to the nature of the exhibit under the rules for the destruction of records.

True copy

x x x x

Application made 10-8-03
Stamp paper called for 31-8-03
-Do- deposited 2-9-03
Copy ready 12-9-03
Do - delivered 14-9-03

[illegible]

In the Court of the District Judge of Godavary at Rajahmundry.

Friday the 7th day of August 1903.

Present:- F. H. Hamnett Esqr. District Judge.

Appeal Suit No 420 of 1902

Between: The Secretary of State for India in Council represented by the Superintending Engineer, 1st Circle, Waltair. } Deft.

and: Polula Rama Rau of Rajahmundry - Respdt (Plaff)

Appeal against the decree of the Court of the Additional District Munsif of Rajahmundry and Ellore dated the 27th March 1902 in original Suit No 302 of 1901 (Old No 331 of 1901) on the file of the District Munsif Court of Rajahmundry.

This appeal coming on for hearing this day the court delivered the following

Judgment:-

The only point is whether there were 8 acres of cultivable land in the lanka leased to the Plaintiff of which he was not put into possession. It is perfectly clear from Exhibit V that the delta Superintendent included in the sketch in Exhibit V every patch of the cultivable land or partially cultivable area in the lanka, which had not already been put into

the Plaintiff's possession. The whole of this area in the Sketch shown as cultivable or partially cultivable was put into Plaintiff's possession subsequently in accordance with the order Exhibit VI(a.) It follows that there was no other cultivable portion of the banks of which he could have been given possession. There is not the slightest ground for impugning the Delta Superintendents' testimony or his reports or of questioning the accuracy of his sketch. He distinctly states that he measured the land when he prepared the Sketch in Exhibit V.

2. The oral evidence adduced by the Plaintiff deserves no weight whatever. The Plaintiff's suit was not brought until 1901, though the Executive Engineer rejected his claim as absurd in November 1898. The delay is not explained by the Plaintiff and the most probable explanation is that Plaintiff waited till the Executive Engineer, who knew the facts was absent on furlough to launch a false suit. Witnesses such as Plaintiff examined are easily procurable to give false evidence for a consideration.

3. The District Munsiff appears to have based his finding mainly on the fact that the Executive Engineer

in his order Exhibit B_2 did not specially traverse all the Plaintiff's allegations. He appears to have assumed that Executive Officers have the training of professional lawyers and that it is usual in Executive orders to traverse every allegation which is not admitted. Nothing can be more manifestly absurd than such an assumption and it is such an assumption that the Lower Courts' finding on issue 3 is absurd.

4. I find that there was no cultivable area in the lanka leased to Plaintiff of which he could possibly have been put into possession besides what he actually got possession of and I allow the appeal with costs throughout. An objection memo was put in but no stamp duty was paid on it and it was withdrawn. The objection memo was therefore dis-missed with costs before the hearing of the appeal.

Pronounced in open Court this the 7th day of August 1903.

(Signed) F. H. Hamnett.
District Judge

(True copy)

Application made 10. 8. 1903
Stamp papers called for 31. 8. 1903
-Do- deposited 2. 9. 03
Copy ready 12. 9. 1903
Do -delivered 14. 9. 1903

Specially transfer all the Plaintiff's

allegations. It appears to have no [illegible]

that Executive Officers have the [illegible]

of professional [illegible] and that [illegible]

in Executive orders to transfer [illegible] again

allegation which is not admitted. [illegible]

G. O. No. 1163 dated 22nd September 1922 [illegible]

Cal. be more than forty

an assumption. [illegible] it is [illegible] also

from the [illegible] Sight the Govt. [illegible] Circle No. 2736 P.E. dated 23rd [illegible]

on case 3 is decided.

4. I find that there was no [illegible]

arose in the [illegible] Order [illegible] G. O. No. 1163 dated [illegible]

of which he could [illegible]

but [illegible] 22nd September 1922 [illegible]

actually [illegible] in the [illegible]

The appeal [illegible] costs [illegible] against the judgment

objection [illegible] merely [illegible] of the withdrawal [illegible]

Stamp duty of Rupees [illegible] and [illegible]

was withdrawn. The [illegible]

was therefore [illegible] the decree [illegible]

I the decree [illegible] with interest at 6%

cause [illegible] from date of plaint

with costs and interest [illegible]

Potato Rama Rao [illegible]

damages said to have [illegible]

[illegible]

with the [illegible]

PUBLIC WORKS DEPARTMENT,
IRRIGATION BRANCH.

PROCEEDINGS OF THE MADRAS GOVERNMENT.

B

Suit in connection with the leasing of Aurangabad Lanka.

READ again the following

I G. O., No. 1106 I/A, dated 22nd September 1902.

Read also.

From the Supg. Engineer, I Circle, No. 2736 G.E dated 22nd Oct 1903.

Order No 1078 I.I 20-11-03.

Flag: I

In G. O., No. 1106 I/A dated 22nd September 1902, Sanction was accorded to the institution of an appeal against the judgment of the additional District Munsiff of Rajahmundry and Ellore that Govt should pay a sum of Rs 400 with interest thereon at 6% per annum from date of plaint together with costs and interest, to one Potula Rama Row on account of damages said to have been sustained by him in connection with the lease to him of certain

31-10-03

Issue

2/11/03

2/11/03

portions of Aurangabada Lanka, in the Godavari Eastern delta.

The Superintending Engineer, I Circle, now again forwards copies of the appeal decree and judgment of the District Judge of Godavari, reversing the decree of the lower Court and dismissing the lessee's suit with costs in the lower and appellate Courts. The copies of the decree and judgment will be recorded.

2. The Supg. Engineer also forwards a bill amounting to Rs 41-8-4 on account of pleader's fees and another amounting to Rs 40. 12. 0 on account of costs incurred in the suit and supported by Court's certificate. The payment of the bills is sanctioned.

MAL
27/10/03

[signature]
28/10/03

DESPATCHED
21 NOV. 1903

To

The Chief Engr for Irrign (with certificate + 2 bills)

" Supg Engr I Circle (with copies of decree & judgt retd)

" Examiner P. W. Accts

[signature]

[signature]
27.10.03

E. I. Form No. 1—1,000—16-5-03.

G. O. No. 1106/A dated 22

From the Supdg. Engineer, I Circle, No. 7136

In G. O. No. 1106

accorded to the institution

appeal against the judge

...ns of Hungabado Lanka,

... Godavari Eastern delta

Superintending Engineer, I

... now forwards copies

... appeal: decree and

judgment of the District

Godavari, reversing the decree 20th Nov.

the lower Court and dismissing

Plaintiff's suit with costs in

lower and appellate Courts

copies of the decree and judg-

ment will be recorded.

The Supg. Engineer also

sends a bill amounting to

[illegible]

and another amounting to

... 12 0 on account of costs

... in the suit and supported

... certificate &c.

2,000—1-12. P.W.D. IRRIGATION BRANCH.

Subject:— Resolution No 2 moved at the meeting of the Council held on 2.4.1913 re re: levy of water rate under the Periyar system

CURRENT FILE.

CONTENTS.

Current No.	From	Number.	Date.	Pages.

[P. T. O. FOR PUT UP PAPERS.]

PAPERS PUT UP WITH IRRIGAT.ON CURRENT No.______

Papers of the P.W.D., Irrigation Branch.

Number.	Date.	Original (= O.) or spare copy (= S.C.)	Remarks. (In this column such of the papers as have been removed for copying, printing, etc., should be marked with a cross.)

Papers of other departments.

Department.	Number.	Date.	Original (= O.) or spare copy (= S.C.).	Initials with date of Despatcher to denote the return of the papers to the Department concerned.

Roc No 393-D/13 dt 25-3-13

O.M.

The Exec: Engr:, Madura Division, is requested to forward, by return post, a report of the staff at present employed in the Periyar System for protecting the Irrigation works, explaining clearly how far they serve the purpose intended.

[signature] 24.3.13 P.K.S. 24.3.13

[signature] 25/3 [illegible] for [illegible]

DESPATCHED to EE Madura Dn & SE VI
Date 25.3.13
Enclos. nil

To
The Exec: Engr:,
Madura Dn

Copy to the SE, VI Circle.

V/

Telegram Express

To

The Executive Engineer
Madura division
Madura

—

Please furnish by telegraph information called for in memo No. 393 d/ 25th instant

G.V. 28.3.13 P.K.S. 28.3.13

[illegible]

Please [illegible] fair

Copy telegram & post

Copy to E.E. [illegible]

[illegible] 27/3

write fair

Note

This may issue under M.E.S.S. signature

G.V.

DESPATCHED
Telegram
Date 28.3.13
Enclos.

Also post copy.

Copy by post

C/No 393 8/13

Telegram

C. INDIAN TELEGRAPHS. 70

NOTICE.

This form must accompany any inquiry made respecting this Telegram.

Charges to pay	Rs.	As.

TRIPLICANE 29 MA. 15

JOINT SECRETARY TO GOVERNMENT ... 31 MAR 1915

Handed in at (Office of Origin.)	Date.	Hour.	Minute.	Service Instructions.	Words.
Madura P	29	16	5	State	27

Recd. here at 17 H. 59 M.

TO

Madras Irrigation Madras

U T

Your number 393 I not understood no special establishment employed to prevent wanton damage to irrigation work

X En =

N.B.—The name of the Sender, if telegraphed, is written after the text.

Gulab Singh & Sons Calcutta—No. 101 Tel.—18-10-12—20,00...

Very Urgent

PUBLIC WORKS DEPARTMENT.

No. 393
8.E.
29/3/13

Executive Engineer's Office,
Madura Division.

From

V. H A R T Esquire,
Executive Engineer,
Madura Division.

JOINT SECRETARY TO GOVERNMENT
31 MAR 1913
393 31/3/13
P.W.D., IRRIGATION BRANCH.

The Chief Engineer for Irrigation,
M A D R A S.

Ref:- Your R.O.C.No.393-I of 13 dated 25-3-1913.

Sir,

I have the honour to state that I do not quite understand what information is required. No special staff is engaged in the Division to prevent wanton damage to sluices etc. but for the ordinary upkeep of channel banks etc. a set of bankers are employed roughly speaking one banker to every 3 miles of maintained channel.

I have the honour to be,
Sir,
Your most obedient servant,
Sd/:- V. H a r t, 28-3-13,
Executive Engineer,
Madura Division.

(By Order)
[signature] 29-3-13
M a n a g e r,
Executive Engineer's Office,
Madura Division.

29/3/13

From
The Executive Engineer
Madura Dn.

To The Chief Engineer
for Irrigation
Madras.

No. SE/393
29.3.13

Subject.

Staff employed in Periyar chls.
— Informing that no estt. —
to prevent wanton damage to sluices
&c., —

[—]

500—20-8-11.

REVENUE DEPARTMENT.

NOTES.

Revenue Deptt.

Resolution on matters of General Public Interest.

The Hon'ble Mr. K. Rama Aiyangar.-

2. This Council recommends that His Excellency the Governor in Council be pleased to issue instructions that the rules relating to the levy of water rates under the Periyar Irrigation system be so modified as to exclude the levy of penal water rates on persons who are not responsible for interference with the Irrigation Works and that further the penal assessment be limited to one and a half times the usual water rate.

Revenue Department.

Extract from H.M's. remarks regarding Resolution No. 2 for Meeting of 2nd April, recommending to exclude the levy of penalty in respect of Periyar Irrigation on persons not responsible for interference.

The Secretary will no doubt see that a full office note is put up and so arranged that I can readily find in it any point or points that I may wish to refer to in the debate. I sub-join a few notes not by any means intended to be exhaustive on points that will have to be considered.

x x x

3. Statistics should if possible be collected to show the extent to which water has been irregularly taken and to which resort has been had during each of the last 5 years say, to collective penalization, the number of cases and the amount collected and also if possible statistics to show whether when such penalty has been collected there has been any remission on land injuriously affected by the pilfering of water. Much will be made of the argument that in this as in other ways we seek only to increase the revenue.

Of course only in the Periyar tracts.

4. Therefore we should have a clear statement from the Collector and P.W.D. of any other steps that may have been taken to prevent the irregular taking of water the number of guards and watchmen etc., employed to protect irrigation works from damage and an explanation for the failure of such establishment

2

establishments to effect their purpose.

5. The Collector should report whether complaints are made by these injured by irregular taking of water; if so the number of the complaints and their purport and whether any remedial measures have been recommended therein.

X X X

J.N.A.
20-3-13.

To Secretary.
This may be forwarded to P.W.D.I for answering H.M's remarks in paras 3 & 4 supra.

[illegible] 21/3. R.S. 21/3/13

Rev. U.O.D. No. 5478/13-3
P.W.D.I. U.O.
[illegible] 21.3.13

JOINT SECRETARY TO GOVERNMENT P.W.D. IRRIGATION BRANCH 22 MAR 1913 3939/13

P.W.D.(I)

To
Under Secretary
The statistics suggested by H.M. in para 3 of his remarks above have

C. 393 D/13

NOTES.

to be collected by the Board of Revenue, no information being available in this depart:

2. With regard to para 4 of H. M's remarks in page 1 supra, attention is invited to the Periyar Sub-divisional Officer's report dt 7-5-1912 printed in pp 3 & 4 of G. O. No 4093 I dt 2-10-1912. In para 2 of the report the Sub-divisional Officer ~~step~~ explains the various means tried to stop the damage being done. The report also explains generally the ~~reason~~ failure of the watchmen establishment. It is for consideration whether the E should be asked for a report of the staff at present employed in the Periyar System for protecting the irrigation works, explaining clearly how far they serve the purpose intended.

And S. E. might be asked to supply this information by return post

[initials] 22/3/13 PKS 22-3-13 [signature] 23/3/13 [signature] 23/3/13

Send copy direct to EE Madura

[initials]

D.D.

A draft O.M to the E.E is subd for approval. A copy of the O.M will be sent to the SE

To be returned to the concerned

[initials] 24.3.13 PKS 24-3-13 [signature] 25/3/13

O/M. issued as Roc No. 393-D/13. P.W. 25.3.13

C.393 D/13

D.S / 7

The Ex: Engineer, Madura, has not furnished the information asked for in memo Roc. No. 3939/13 d/ 25. 3. 13. As the meeting of the Executive Council to consider the draft answers to Questions & Resolutions [illegible] is to take place tomorrow, for orders, if the Ex: Engr. as urgent may be asked to give the information asked for, by telegraph.

GV 28. 3. 13. PWS 28.3.13 [illegible] 28/3/13

Yes please do so
[illegible] 28/3/13

GV. PWS 28.3.13

~~DF~~

A telegram to the E.E is put up

GV 28/3/13 Issue PWS 28.3.13

C 3939/13. From the Ex: Engineer, Madura Dn, Telegram d 29/3/13
——— do ——— letter No. 393 Sc d 29.3.13

DS / 2

Please see Memo in page 1 C.f. The Ex. Engr. states that the Memo is not understood by him and reports that no special establishment is employed to prevent wanton damage to irrigation works but that for the ordinary upkeep of Channel banks, a set of lasbars are employed at the rate of one for every three miles of maintained Canal. It is submitted that a copy of one of the Canal of this file may be sent to Revenue with reference to

remarks in pp 1 & 2 ante.

Flag 'W' (must be added to these Notes)

2 – A printed copy of the notes in the Resolution prepared in Revenue is submitted for H's perusal. The G.Os quoted by Revenue at the foot of these notes [illegible] will be collected as far as available & submitted separately.

[illegible]
31/3/13.

[illegible] 31/3/13

[illegible]

As [illegible] f

6

REVENUE DEPARTMENT.

NOTES CONNECTED WITH RESOLUTION ON MATTERS OF GENERAL PUBLIC INTEREST.

The Hon'ble Mr. K. RAMA AIYANGAR :—

2. This Council recommends that His Excellency the Governor in Council be pleased to issue instructions that the rules relating to the levy of water-rates under the Periyar Irrigation system be so modified as to exclude the levy of penal water-rates on persons who are not responsible for interference with the Irrigation Works and that further the penal assessment be limited to one and a half times the usual water-rate.

To Under Secretary—

In reference to this resolution the Board has been asked to submit its remarks and to collect such details as to the general nature of causes leading to the imposition of enhanced rates as may be procurable by the 27th. The following note is submitted in anticipation of the Board's reply :—

The resolution deals with two points, namely—

(1) The rules relating to Periyar irrigation to be modified so as to exclude the levy of penal water-rates on persons who are not responsible for interference with irrigation works;

(2) the rules relating to Periyar irrigation to be modified so that the penal assessment should be limited to one and a half times the usual water-rate.

Item 1.—This is about interference with irrigation works. Such irregular interferences are generally—

(*a*) Damming channels or masonry works.

(*b*) Damage to masonry works or interference with them.

(*c*) Breaking or stealing locking arrangements.

(*d*) Breaking or damaging canals.

(*e*) Putting in unauthorised sluices.

All these kinds of interferences have been met with in Madura—*vide* Superintending Engineer's letter on page 3 of Memorandum C. No. 1270, dated 25th February 1911.
H.A.W.

To these may be added taking water out of turn when a morai is fixed and similar others.

An investigation of the causes of these interferences was made by Public Works Department.

The Executive Engineer, Madura division, states " there is no doubt that a proportion of this case of interference perhaps especially in the last two years are caused by some difficulty in getting a supply and I agree with both Assistant Engineers as to the contributory causes for this.

" (*a*) That the channels and masonry works of the system have been designed " for a much lower duty than that at which they are now worked and that consequently the necessary water level cannot be maintained at the higher duty.

" (*b*) That a certain amount of land has been sold for wet cultivation which is " on a higher level than can be properly commanded, etc.—*vide* paragraph 3 at " pages 3–4 of No. 1270-C., dated 25th February 1911."

The Sub-Divisional Officer (Mr. Hart) has also explained the causes. He states " the cross bunding of channels seems to have existed many years and no steps " appeared to have been taken to stop it or find out the cause. I have little or no " doubt that the real or primary cause is granting permission to irrigate high level " bunds.

"If these drops had not been raised and the high lands cut out, the question of "cross bunds would not have arisen, of course it may be said that bunds have been "put in to get increase of supply, but I have doubts if they would have been erected "if there were no high lands to be wetted and the turn system had never been "introduced."

"The turn system ought to have tended to increase cross bunds, because when a "ryot knew that he only got water twice or thrice a week, he had to get as much as "he possibly could during the turn and therefore put a bund"—please see page 10 of No. 1270-C., dated 25th February 1911.

It is not clear which rule the Additional Member wants to be modified. The Periyar water rules are given at page 11 *et seq.* As a matter of fact, there is no rule either under the Periyar rules or under the general rules for irregular irrigation (which have been extended to the Periyar irrigation) to the effect that the ayacut holders should be charged with the enhanced assessment in cases where the irrigation works are interfered with and the actual culprits cannot be traced. The Government have proposed to provide for this in caluse 16 of the Irrigation Bill. The Board has more than in one reference pointed to Government the urgent necessity for making a legal provision to charge enhanced assessment in such cases in advance of the Irrigation Bill and the matter is still under correspondence. Please see also the notes in the linked file put up.

Under the second proviso to section 1 of Act VII of 1865 as amended by Act V of 1900 the taking of water to wet lands from its authorised source cannot be deemed to be irregular irrigation though the ryots have recourse in taking the water to any of the irregular *means detailed above.* It is not clear whether the Additional Member takes the point in this view or whether he is of opinion that the irregular irrigation rates apply to wet lands also.

It is also not known whether the Additional Member's case is that when water irrigates a land belonging to one person on account of the interference of another person with the irrigation work the former person should not be made liable even though his land has been benefited. Perhaps the Additional Member's view is that because the words "the water is irregularly taken" are used in the rules for levy of enhanced water-cess, the taker alone can be made liable and not others.

The practice under Periyar irrigation seems to be to charge enhanced assessment under the rules for the water-cess for water irregularly taken to wet lands apparently under the impression that the rules allowed it—please see the Madura Collector's Circular No. 3131-Rev., dated 24th August 1909, at page 5 of Memorandum No. 1270 C., dated 25th February 1911 and paragraph 4 of Sub-Divisional Officer's report at page 4 of G.O. No. 409 I., dated 2nd October 1912. The legality of the procedure has been questioned by the Board itself—please see paragraph 4 of Board's Proceedings Mis. No. 2975, dated 10th August 1897, in G.O. No. 83 I., dated 31st January 1898, though Government thought in 1898 that there was no legal objection to charging a penal rate when water was taken surreptitiously to wet lands by interfering with regulators, sluices or dams—G.O. Mis. No. 266, Revenue, dated 17th January 1898. Please see Notes to G.O. No. 597 (Confdl.), dated 28th February 1913. The necessity for taking power to charge enhanced assessment has, however, been urged by the Board—please see G.O. No. 376, Revenue, dated 11th March 1913.

The question is still under the consideration of Government.

The Hon'ble Mr. V. Ramabhadra Nayudu interpellated as follows:—

"(a) Are Government aware that considerable dissatisfaction exists among ryots holding lands under the Periyar irrigated area in the Madura district in regard to the levy of penal assessments on their lands in consequence of the breaking open of the sluice lock by the watchman appointed to guard it or by other unknown persons?

(b) If so, will Government be pleased to look into the matter and see lower riparian owners are not vicariously punished for the wanton acts of the watchmen or any other mischievous person?"

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The Government then gave the following reply :—

"The Government have no information on the subject. It is open to the parties aggrieved to appeal against the order imposing enhanced water-rate if the facts are as alleged."

Item (2).—The Additional Member requests that the rules under the Periyār irrigation should be modified so that the enhanced assessment in case of irregular irrigation should be limited to one and a half times the usual water-rate. Rule V (2) of the executive Periyār water rules approved in G.O. No. 2847, dated 13th October 1908, contains the following :—

"An extra charge of half the water-rate will ordinarily be imposed except in "the Periyakulam taluk where an extra charge which shall not exceed four times the "water-rate may be imposed at the discretion of the jamabandi officer."

Please see also rule V (1).

These executive rules did not derive any validity from Act VII of 1865. Hence under G.O. No. 231, dated 25th January 1911, the general rules framed under Act VII of 1865 for irregular irrigation (*vide* G.Os. No. 162, Revenue, dated 20th January 1909, and No. 3060, dated 5th November 1908) were extended to the Periyār irrigation. In accordance with these rules two times the water-rate ordinarily payable is imposed for the first occasion, five times for the second, and ten times for the third. The rules also provide for the officer imposing the enhanced water-rate being empowered to remit portion of it at his discretion—G.O. No. 231, dated 25th January 1911.

When these rules were published and suggestions invited, no objection was taken by anybody and the rules make a legal provision under the Act. The rules are sufficiently elastic for adoption and there seems to be no need to make any modification either generally or specially for Periyar irrigation. On the other hand the Collector of Cuddapah while reporting on the working of these rules reported that some distinction should be made between cases falling under Rule 1 (*a*) and those falling under 1 (*b*) and observed :—"The latter deserve to be treated sometimes in an exemplary manner and the charge of double water-rate in the first year will not be sufficiently deterrent. The rules provide for reduction or remission of penalty but make no provision for imposition of a heavy rate in the first year in flagrant cases where water is taken against distinct orders, etc."—*vide* G.O. No. 1374, dated 10th May 1911. The Board was not in favour of the suggestion made by the Collector and the Government also agreed with the Board.

So far as the enhanced rates are concerned for former executive rules (Y) and (2) of the Periyār rules though not cancelled practically superseded.

A further note will be submitted with reference to Honourable Member's observations on receipt of the reports called for from the Board of Revenue and the Collector of Madura.

R.S.—25-3-13.

To Secretary—

The Additional Member's intention is that in a case where the lands of A, B and C have been benefited by interference with an irrigation work and it is impossible to find out who the actual culprit is A, B and C should not be charged enhanced water-rate.

Theoretically it is unjust that B and C whose lands have been benefited without any intention on their part by the unlawful act, say of A should be made to pay: but the difficulty arises that it is generally impossible to find out who the actual culprit is. The only test is that as the lands of A, B and C are the lands benefited it must be at the instance of or with the connivance of A, B and C that the interference occurred. In practice this rule will I think be found to work not inequitably.

The question arises in Periyar tract from the number of absentee landlords. A landlord can always fall back on the excuse that he knew nothing of the interference and that it was brought about entirely without his consent or connivance.

If his tenant interfered and was not found out, why should the "poor landlord" be made to pay the enhanced water-rate? That is no doubt at the bottom of all this agitation.

The application of the general rules for the imposition of enhanced water-rate was extended to the Periyar tract after due consideration in 1910 and 1911. It was reported then that the old enhanced charge of $1\frac{1}{2}$ times the ordinary rate was not sufficiently deterrent to put an end to irregular irrigation and it was decided that it was necessary to put the general rules into force, tempered as they were then by the power to remit part of the charge.

That some such power was necessary is evidenced by the large number of cases $(72-13=59)$ of interference with irrigation works which occurred between May 1909 and February 1910—a year of ample water-supply.

It would be a retrograde step to go back to the old rule were $1\frac{1}{2}$ times the ordinary charge was the maximum impossible.

All this is of course impertinent if the Board's decision that water taken irregularly from a recognised source cannot be charged for at enhanced rates, is considered correct. That question is under discussion in another file.

H. A. WATSON—26-3-13.

(i) Copy of the note to go to press at once please.

(ii) The note to go to Honourable Member.

(iii) Let me have copy of the note when received from the press with spare copies of Government Orders.

(iv) The list of Government Orders put up to be printed.

(v) Public Works Department may be asked if they have any further information such as that reported at page 5 of 127 O.C., 25th February 1911.

L. M. WYNCH—27-3-13.

List of Government Orders put up in the file on Resolution No. 2 regarding the modification of the Periyar water-rate rules.

(1) G.O. No. 597, Confidential, dated 28th February 1913, considering that it is not desirable to undertake special legislation to justify the levy of penal water-rate on the whole ayacut of an irrigation work when water is taken by secret injury to or interference with it.

(2) G.O. No. 409 L., dated 2nd October 1912, recording Legislative Council question and further correspondence regarding the watching of sluice locks in the Periyar channels.

(3) G.O. Mis. No. 574, dated 28th February 1912, recording notes connected with Legislative Council question regarding penal assessment for Periyar Irrigation.

(4) G.O. No. 3457, Revenue, dated 18th November 1911, recording notes connected with clause 16 of the Irrigation Bill regarding the powers of Government to recover the cost of repairing damage to irrigation or drainage works from the occupiers of land benefited by the damage when persons causing it are not known.

(5) G.O. No. 2527, Revenue, dated 18th August 1911, recording notes on the subject of giving notice to ryots of their liability to pay enhanced water-cess for irregular irrigation.

(6) G.O. No. 1932, Revenue, dated 23rd June 1911, approving amendment to Board's Standing Order No. 4.

(7) G.O. No. 1374, Revenue, dated 10th May 1911, recording report on the working during fasli 1319 of the enhanced water-rate rules.

(8) Memorandum, Confidential No. 1270-C, dated 25th February 1911, passing orders on the proposals of the Superintending Engineer regarding damages caused to Government irrigation works by private parties in the Periyar channels.

(9) G.O. No. 231, Revenue, dated 25th January 1911, notifying amendments to the rules for the levy of water-cess for water irregularly taken to any land for purposes of irrigation.

(10) G.O. No. 3775, Revenue, dated 29th November 1910, recording Board's Proceedings notifying amendments to the Periyar water-rate rules.

(11) G.O. No. 3359, Revenue, dated 17th October 1910, notifying amendments to the Periyar water-rate rules.

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(12) G.O. No. 2833, Revenue, dated 26th August 1910, notifying amendments to the Periyar water-rate rules.

(13) G.O. No. 2453, dated 26th July 1910, notifying draft amendments to the rules for the levy of water irregularly taken for purposes of irrigation.

(14) G.O. No. 162, Revenue, dated 20th January 1909, recording Board's Proceedings regarding the rules for the levy of water-cess irregularly taken.

(15) G.O. No. 3060, dated 9th November 1908, notifying rules for the levy of water-cess for water irregularly taken.

(16) G.O. No. 2847, dated 13th October 1908, publishing rules for the levy of cess under the Periyar system.

(17) G.O. No. 1745, Revenue, dated 11th July 1907, ordering the publication of the Periyar water-rate rules.

(18) G.O. No. 639, dated 10th July 1906, notifying Periyar water-rate rules.

(19) G.O. Mis. No. 485, Revenue, dated 21st April 1906, recording notes connected with the Legislative Council question regarding the imposition of prohibitory water-rates.

(20) G.O. No. 279, dated 18th March 1902, approving draft rules for the levy of water-rate under the Periyar system.

(21) G.O. No. 83 I., dated 31st January 1898, communicating G.O. Mis. No. 266, dated 17th January 1898, stating that there is no legal objection to charging water-rate when water is taken surreptitiously to wet lands by interfering with regulators, sluices or dams.

(22) G.O. Mis. No. 266, dated 17th January 1898.

JOINT SECRETARY TO GOVERNMENT
26 MAY 1913
P. W. D. IRRIGATION BRANCH.

Extract from the Proceedings of a Meeting of the Council of the Governor of Fort St. George assembled for the purpose of making Laws and Regulations under the provisions of the Acts of Parliament, 24 & 25 Vict., C. 67, 55 & 56 Vict., C. 14, and 9 Edw. 7, C. 4.

RESOLUTION No. 2—WATER-RATES IN THE PERIYAR TRACT.

The Council met at the Council Chamber, Fort St. George, at 11 A.M. on Wednesday, the 2nd day of April 1913.

PRESENT:

His Excellency the Right Hon'ble JOHN, *Baron* PENTLAND of Lyth, P.C., G.C.I.E., Governor of Madras—*Presiding*.
The Hon'ble Sir JOHN ATKINSON, K.C.S.I.
The Hon'ble Mr. P. S. SIVASWAMI AIYAR, C.S.I., C.I.E.
The Hon'ble Sir HAROLD STUART, K.C.V.O., C.S.I.
The Hon'ble Mr. A. G. CARDEW, C.S.I.
The Hon'ble Surgeon-General W. B. BANNERMAN, I.M.S., M.D., D.Sc., C.S.I.
The Hon'ble Mr. R. B. CLEGG.
The Hon'ble Mr. L. M. WYNCH, C.I.E.
The Hon'ble Mr. A. BUTTERWORTH.
The Hon'ble Sir ALFRED BOURNE, K.C.I.E., D.Sc., F.R.S.
The Hon'ble Mr. C. A. SMITH, C.I.E.
The Hon'ble Mr. H. E. CLERK.
The Hon'ble Mr. C. R. M. SCHMIDT.
The Hon'ble Mr. L. DAVIDSON, C.S.I.
The Hon'ble Mr. F. H. M. CORBET (*Advocate-General*).
The Hon'ble Mr. H. F. W. GILLMAN.
The Hon'ble Diwan Bahadur L. D. SWAMIKANNU PILLAI Avargal.
The Hon'ble Dr. T. M. NAIR.
The Hon'ble Mr. T. V. SESHAGIRI AIYAR.
The Hon'ble Rao Bahadur B. NARASINHESWARA SARMA Garu.
The Hon'ble Mr. M. RAMACHANDRA RAO PANTULU.
The Hon'ble Mr. A. S KRISHNA RAO PANTULU.
The Hon'ble Mr. P. KESAVA PILLAI.*
The Hon'ble Rao Bahadur A. SUBBARAYALU REDDIYAR Avargal.
The Hon'ble Mr. B. V. NARASINHA AIYAR.
The Hon'ble Mr. K. P. RAMAN MENON.
The Hon'ble Rao Bahadur V. K. RAMANUJACHARIYAR Avargal.
The Hon'ble Mr. K. RAMA AIYANGAR.
The Hon'ble Mr. K. R. V. KRISHNA RAO PANTULU.
The Hon'ble Diwan Bahadur V. RAMABHADRA NAYUDU Garu, Zamindar of Doddappanayakkanur.
The Hon'ble Mr. C. V. S. NARASINHA RAJU.
The Hon'ble Mr. K. CHIDAMBARANATHA MUDALIYAR.
The Hon'ble Mr. V. KUNHIRAMAN NAYANAR.
The Hon'ble Mr. T. ZAIN-UL-ABIDIN SAHIB, Shifa-ul-Mulk.
The Hon'ble Mr. A. D. JACKSON.
The Hon'ble Mr. R. M. SAVEGE.*
The Hon'ble Mr. E. F. BARBER.
The Hon'ble Sir FRANCIS SPRING, K.C.I.E.
The Hon'ble Mr. T. RICHMOND.
The Hon'ble Rao Bahadur P. C. SOMASUNDARA CHETTIYAR Avargal.
The Hon'ble Mr. V. S. SRINIVASA SASTRI.
The Hon'ble Mr. A. MUIRHEAD, C.I.E.
The Hon'ble Raja Sri MADANA MOHANA SINHA DEVU Garu, Zamindar of Dharakota.

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* Did not arrive until some little time after the proceedings had commenced.

(Mr. Rama Aiyangar.)

WATER-RATES IN THE PERIYAR TRACT.

The Hon'ble Mr. K. Rama Aiyangar:—"May it please your Excellency, the proposition that I beg to move runs in these terms:—

[No. 2.] This Council recommends that His Excellency the Governor in Council be pleased to issue instructions that the rules relating to the levy of water-rates under the Periyar irrigation system be so modified as to exclude the levy of penal water-rates on persons who are not responsible for interference with the irrigation works and that further the penal assessment be limited to one and a half times the usual water-rate.

"This resolution relates more or less to a purely local subject and it is for that reason that I want Honourable Members to pay greater attention to it lest it should be treated as a local subject. This is in my view an important subject that affects a lot of people in Madura and portions of Rāmnād. The Periyar project, as we know, has been worked for about the last sixteen or seventeen years and the area brought under cultivation under that project has been increasing by rapid strides and it is now about 122,000 acres, of which almost the whole area is irrigated for the first wet crop and 46,000 acres are irrigated for the second crop. I have to bring to the notice of this Council that I had given notice not only of this proposition but also of another closely allied to it, but your Excellency was pleased to disallow that resolution at present and asked me to make a reference to the Government and told me that after the inquiry was made by the Government I might move in this Council if necessary. I would not have mentioned that but for the fact that that resolution was more or less closely connected with this and the matters connected with that cannot but be mentioned while discussing the present resolution. I have been asking the Government for the last two and a half months to let me know what penal assessment has been collected in the Periyar area during the last five years, and I repeated the request and I have been only told as often as I asked for it that no such information was available. I requested the Government to allow me to get it from the Collector of the district but that was also not permitted. That was a difficult position for me to contend against and under these circumstances I had to work my way to find out what this amount would be, the amount levied under the penal assessment rules. What I now find is that we have now got in the area—I now take the figures for 1910–11 as published in the reports—in the Periyar area for 1910–11 we had 129,245 acres which are cultivated for the first crop and about 45,545 for the second crop. There is a small acreage to be added to it of 758 acres for the first crop and 456 acres for the second crop, which has been cultivated by lift, but even if that is to be included the effect will be that, calculating from the rate of the water charge, we may roughly come to the figure which indicates the penal assessment that is being collected. It appears from the accounts themselves that about two lakhs and odd are due as revenue for old irrigation for the first crop and I have also been given to understand that about 60,000 acres of this 129,245 will be old wet land and about 16,000 acres of the second crop area will be old wet land. In any event so far as the first crop taxation goes the old wet lands do not contribute to the water-rate, so that the remaining 60,000 acres will be paying water-rate to the Government and the charge for the first crop is Rs. 5 *per* acre and that will give us about 3·10 lakhs for the first crop revenue. For the second crop, although I submitted that 16,000 acres is found to be old wet land, I take it that all the 45,000 acres will pay the water-rate because the wet lands may not be allowed remission of taxation for the second crop. I will take it therefore that all the 45,000 acres do pay at the rate of Rs. 3 which is the assessment for the second crop as provided by the rules. That will give us 1·35 lakhs for that, making in all 4·45 lakhs. What we actually find collected is about 5·75 lakhs after deducting the share due to old irrigation for the year 1910–11. Now we can clearly see that we have about 1·30 lakhs which has to be accounted for as having been got from other sources. It could not be the levy that could be made under the rules for the water charge; and, as far as I have been able to gather, a large

(Mr. Rama Aiyangar.)

portion of this is levied as penal assessment in the Periyār area. With regard to this penal assessment what I am particular about bringing to the notice of the Council as to what is being done is that supposing under a sluice fifty pattadars hold lands and one of these pattadars, because of the scarcity of supply in the channel or because of his land being in a higher level than the sill level of the sluice which lets down the water, bunds up any portion of the channel, the main or the branch one, the levy of the penal assessment is made not only on the person who made the mischief but on all those who hold land under that channel. That is what is being done and recently the rules have been modified so as to increase the levy of penal assessment in these cases from $1\frac{1}{2}$ times the water-rate to about 10 times the water-rate, discretion being vested in the officers concerned to levy it at any rate. It is here that I have to impress upon the Honourable Members the distinction that is to be drawn between the Periyār irrigation as it now stands and probably other irrigation systems which they might be acquainted with. In the north we have got the Gōdāvari and Kistna delta irrigation and in the south the Cauvery delta irrigation and various other minor irrigation works, works in charge of the Public Works Department for a long time. Before going to the figures in connection with that subject, what I beg to point out is that, while in all these systems of irrigation the whole of the distributary arrangements are well settled because of their having been in existence for a long time, the conditions in Madura are quite different. To add to it the Gōdāvari, the Kistna and the Cauvery systems have been mainly started from the maximum flow in big rivers and naturally the arrangements, even as they were originally made, must have been quite proper. But the conditions in the Periyār were quite different. The Government, when they originally opened this channel, did not know what all lands under that area could be irrigated by the channel. In fact it was found for some years that the project was working well. Then many important tanks were abandoned and the beds of those tanks were proclaimed to be sold five or six years after the project was introduced; and up to date I can assure Honourable Members the sales are going on. There are waste lands sold and tank-beds are also sold and some of the tank-beds were recently advertized. I also pointed out at the last meeting of the Council that they might not be sold in order that they may serve to look after the wants of the cattle. That is the stage in which the irrigation system is there. What happened was that the sluices that were intended originally to irrigate about 30 acres in extent now irrigate more than 50 acres and in one case I understand the sluices which were intended to irrigate 100 acres now irrigate 350 acres or about that extent. The sluices were opened at a certain level because they were originally expected to irrigate lands at that level and they are now found to irrigate more or less lands which are in a higher level than the sill level; and the effect is that, unless there is a dam put up, it is not possible for them to make the water reach their lands. This is not merely a vague statement made by the ryots themselves. I have got petitions and orders passed by the Public Works Department officers showing in particular cases that they felt the difficulty and they say that some arrangement must be made to remedy the defect and if it is not done it is not likely that the lands will be irrigated properly. I need only mention one instance in which Mr. Mutturamalinga Aiyar, a High Court Vakil practising in Madura, brought to notice these difficulties he had in irrigating about 80 acres of lands under the Mangalakudi off-take. I particularly mention it so that I may give a sample of that system. It is considered that near the fourth drop or so there are three sluices that start the channels for several fields. Two of them are at a lower level and one of them at a higher level. It is the one at the higher level that irrigates his lands and the drop level is so constructed that if the water is allowed very freely it would not get into one of the sluices so that only by putting up a *korambu* as it is called, that is, a cross-bund across the channel, that water could rise to it; for about six to eight years this has been allowed by the Department itself; and recently within the last two or three years the idea has been started that no such *korambu* ought to be allowed and if such *korambus* are put up the parties ought to be punished, and when this difficulty was pointed out, an endorsement is made that the arrangement has been made to keep a stone of about nine inches in height at the drop so that water might enter and that permanent arrangements may

(Mr. Rama Aiyangar.)

be made later on. This complaint has been going on for four years and nothing has been done. The work at the best would cost about Rs. 20. Whatever that may be, what is going on is this: all the time all the persons that own lands under the channel supplied by these sluices are mulcted in penal assessment. The penal assessments vary; and more recently under certain of the Board's Standing Orders the distinction between the penal assessment to be charged in the Gōdāvari and the Kistna deltas and the Periyār area and other water-rates chargeable in other places was abolished. Under the Standing Orders I find that penal assessment has been made much larger than 1½ times the usual assessment.

"My submission to this Council is that there can be no warrant for a number of persons being assessed to penal assessment when only one commits the mischief. When it can more or less be automatically seen that the man who commits the mischief must be a person whose lands stand at a higher level than the sill level, no attempt is made to investigate. The Collector simply asks these people to pay and no notice even is given, so that the more responsible ryots may come forward and explain the position. What is done is that after the usual *jamabandis* are over and after the assessment is collected from several people, just about July, after the four instalments are paid, they find that a new demand is sent to them for about Rs. 80 or Rs. 90 being the levy of penal assessment; by whom the levy is made and for what purpose they do not know. I have also got the endorsement of the Collector or some other officer who on inquiry, it was found, had ordered that the endorsements should not show why the levy was made. I submit that the people are most law-abiding citizens and their position has been recognized by the Government conferring on them titles and awarding them Kaisar-i-Hind medals. They have all been trying to set this matter right, but it has not been possible for them to do anything. Mr. P. Narayana Aiyar, one of the leading men, has written to me feelingly on this subject; and I have also got various petitions from the ryots bringing out the real defects in the various places. At the anicut at Sholavandan there is the first branch of the channel and there, I understand, the sluices are not all shut up and you can realize the difficulties caused by wrong levels of a particular land and its irrigation source. But it is unnecessary for me to go into all these details as it will take up much more time than what is allowed to me. Therefore my submission is that in the present state of the Periyar irrigation, so long as the authorities themselves are not sure about the adequacy of the water-supply and the arrangement is not quite all right, they ought not to be allowed to levy penal assessment on all those who hold lands under one sluice when one man commits the mischief. It can patently be seen that all cannot be interested in this, because the time of doing it is not the time of the harvest or just about it. That difficulty that might crop up in other places does not arise in Madura, because in Gōdāvari, Kistna and other places it might be that during scarcity time people might bund up the channel and take the water so that the whole crop under the area may be harvested in preference to that of the people lower down. In such a case they will be certainly acting against the orders of the Government and materially advancing their own interests. Such questions do not arise here. I am sure the Government are aware that the capacity of the discharge of the Periyar lake has been considerably increased. From 144 feet the bund has been raised to 150 feet and the watershed cutting has been reduced from 115 to 106 so that we have about 44 feet of water available. The Hon'ble Mr. Gillman, while in charge of the Madura district, had a conference with Public Works Department officers and the leading ryots of the place and I understand reliably from my friends that he was given a full understanding of the state of affairs. There is yet another complaint as to the time of letting in water. I am not going into that portion of it. One point that might now be sufficient is that the present state of the arrangement there in the canals is such that it may be proper to say that any ryot, even if he interferes, ought not to be punished himself, and much less other people, for this offence. If the arrangements are so made that the levels are so kept up and the sluices are adjusted so that every land under each sluice will be very freely irrigated, then if any one wantonly and with bad motive comes and interferes with the sluice, it would be time enough

to punish not only that man but some others also. To do so is an extraordinary power, and it ought not to be utilized in cases where the thing itself has not settled down at present. Mr. Doig was the Collector in Madura some time ago and at that time there was a conference before him. It was freely admitted by the Executive Engineer in charge that he could not explain why only one-fourth of the area of the lands sold as double crop was being cultivated with double crop while sufficient water was available. I understand the explanation was that the channels themselves cannot take water sufficient to supply all lands, and though the tunnel of the lake could discharge enough, the channels, as they are constructed, would not take sufficient water to supply freely all the lands under the area.

"These are the difficulties that have been expressed before the officials and before the non-official members who have been brought together. In any event it is also a question of law. Some suits have also been launched by people saying that they are not liable to pay this penal assessment and they are pending disposal My submission is that it is not a matter which ought to be allowed to go to court at all. I only say that the Government may view the whole thing sympathetically and see that no penal assessments are levied in any event on persons who have not interfered with these channels; and that, till the whole distributary system has settled down properly, nothing more than one and a half times water-rate should be allowed to be charged as penal assessment. In some cases ten times the usual assessment is levied, and that must be where it is a case of wanton interference. But in the present state of the Periyār project that state of things ought not to be allowed and I trust for these reasons the resolution may be passed and relief given to the ryots."

The Hon'ble Sir JOHN ATKINSON:—"Your Excellency, the Hon'ble Mr. Rama Aiyangar began with what might possibly have been taken to be a complaint on the ground that he had not been given certain information that he had applied to Government for and which he had not been able to get either from the Government or from the local officers—information in regard to the amount of penal assessment—additional water-cess to give it its proper name—that had been levied on account of water irregularly taken in the Periyār area. The information was not refused from any sinister motive or any desire to prevent him from getting at the facts; but because, as far as I know, it would have been a very laborious matter to collect it and it did not appear that any equivalent advantage would be gained. In the absence of that information the Honourable gentleman has built up a fabric of calculations upon some assumed data; and unless I am greatly mistaken, his calculations will not bear examination, because his data are not correct. The result of his calculations in regard to the amount of additional water-cess that has been charged was that about 1·30 lakhs is the amount charged in a single year in the Periyār area on account of water irregularly taken."

The Hon'ble Mr. K. RAMA AIYANGAR:—"The major portion of this 1·30 lakhs."

The Hon'ble Sir JOHN ATKINSON:—"I have endeavoured to get information to the same effect as to the area that has been charged with this additional cess and the amount involved; and so far I have been unable to get it. The figures given to me do not in the slightest degree correspond with those which the Mr. Hon'ble Mr. Rama Aiyangar deduced from his data—I will not say imaginary data. I have one report which shows that, in the Madura district, in fasli 1318, the amount of additional water-cess that was levied was Rs. 20,800. I am not prepared to vouch for the accuracy of that figure, because there has not been time to collect complete figures and to have these figures checked. That figure Rs. 20,800 is very different from 1·30 lakhs which the Honourable gentleman mentioned. I feel bound to refer to it as showing that probably his conclusions are not accurate.

"Then there is another point in which it seems to me that his remarks may leave a wrong impression. He gave an instance of a case in which the channels are bunded up and water is taken by one man and then all those to whose lands the water has flowed are subjected to the additional rate; but he did not make it clear

(Sir John Atkinson.)

that the one man whom he referred to is a man who is undiscovered. It might be one man or it might be twenty men and the great difficulty is how to meet a case of that kind. If water is irregularly taken what is to be done? Is the department which administers these channels to sit with folded hands and do nothing? Or are any steps to be taken to prevent the recurrence of such irregular taking of water in the future? Now I think it will be admitted that in this country there is conferred upon the Government the right to regulate the distribution of water and that right connotes a corresponding duty to see that the water is distributed economically and fairly to all those that are entitled to get it and that other persons who have no title to take water should be prevented effectively from taking water to the detriment of those who are entitled to it. That position will, I think, be conceded. It is a very difficult duty for the officers of the Government to carry out effectively in whatever districts they may be. It is most difficult of all in newly irrigated tracts, and, as the Hon'ble Mr. Rama Aiyangar observed, in the area under the Periyār system which has only recently come under irrigation there is going on at the present time what I may call a scramble for water. In the early days of the irrigation of that tract the water was more than abundant for the requirements of the people and it did not matter if a man wasted water or if others who were not entitled to take water took it because there was more than enough water for all. But as time went on, the area of irrigation extended, and at the present date the supply of water is barely sufficient for the requirements of those who are entitled to have it. I say that it is a very difficult thing for the officers of the Government to see to the correct distribution of water in any irrigation system.

"I should like to quote a little evidence to show to the Council how things have been going on in the Periyār tract. As far back as 1910 the then Superintending Engineer speaking of irregular taking of water remarked: 'I have hardly 'ever inspected a distributary or off-take in the Periyār area without finding a mud 'or mud stone dam somewhere in the channel, while cases of unauthorized irrigation of 'high level lands are only too common.' That was in the year 1910. He reported that in the previous two years there were 72 cases including cases of encroachment, damming channels or masonry works, damage to masonry works or interference with them, breaking or stealing of the locking arrangement, breaching or damaging channels and putting in unauthorized sluices. It is known to this Council that the state of affairs as to the unauthorized taking of water had become a matter of common occurrence. The Hon'ble the Zamindar of Doddappanayakkanur put a question on the point in the year 1912. He asked in this Council: 'Is it a fact that frequent complaints have been 'heard of similar removing of locks of sluices on the Periyār system and that it has not 'been possible to fix the responsibility on the right shoulders?' I take it that that question implied that he had heard, or personally he was aware of, complaints of this nature; that is, the removing of locks of sluices was frequent and therefore that question, put by the Hon'ble the Zamindar of Doddappanayakkanur, supports the evidence already given by the Superintending Engineer. On that question we called for a report and the sub-divisional officer reported to the following effect. I need not read the whole of that report, but I will read extracts. He said: 'The 'idea of the Honourable Member who raised this question seems to be that the damage 'to sluices is the act of a few individuals, and if these few were punished, the rest of 'the people would be like lambs. This is in my opinion far from being the case. The 'damage is generally an organized business, and I do not hesitate to say that there is 'scarcely a body of ryots holding lands under any sluice in the Periyār that will not 'resort to such acts. . . . . . We have tried in every way to stop that damage 'being done, but without success. We have tried penalizing, cutting off water, 'prosecutions, but with little success. . . . . . The only possible remedy is, I 'think, that the rate of penal assessment should be increased.' That report was written at the time when the old penal water-rates were in force. He goes on to say, 'It is now in the Periyār area half the wet-rate. This is a mere trifle and the ryots 'laugh at it, and will tell you, as I have often heard them say, that they despise such 'a penalty.' That was the report received in 1912. Since then we got further information from the Collector of the district. Whereas in the two years previous to

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1910, as I have just remarked to the Council, there were 72 cases of unauthorized taking of water, we find that during the last two years there have been 194 cases. That is to say very nearly double. They are—

	CASES.
1. Cross-bunding channels	125
2. Breaking locks	44
3. Interfering with masonry works	10
4. Inserting unauthorized pipes	9
5. Cutting the bund of channels	6
	194

"This will indicate still further the extent to which these irregularities are being practised. I may quote certain statistics showing the area of land to which water has been irregularly taken in recent years. As I said, the statistics are not complete, but they represent roughly the area to which water was irregularly taken. To how much larger area water was irregularly taken in each of these years I am unable to say. In fasli 1318 the extent was 6,087 acres for which water was irregularly taken; in 1319 it was 7,389; in fasli 1320 it was 11,024. It was in that fasli, fasli 1320, that the latest rules on the subject of taking water irregularly, whereby the maximum penalty was raised to ten times the water-rate, were issued. It might be due to that fact that in the succeeding fasli 1321 there was a fall in the area of land irregularly irrigated. It fell to 10,520 acres. These figures seem to me very cogent. These figures coupled with the reports we have received show that the practice of taking water irregularly has become very prevalent and it is a practice which we in the performance of our duty cannot allow to continue. The question is, how is this practice of irregular taking of water to be stopped? The Honourable Member seems to think that it will suffice if the penalty be $1\frac{1}{2}$ times the usual rate. That is, I take it, half the water-rate should be added to the ordinary charge by way of penalty. Whether he means that, or whether he means that in addition to the ordinary charge an extra $1\frac{1}{2}$ times the cess should be levied—in either case the penalty is altogether inadequate to prevent the irregularities that are going on. I have referred to the penalty that was enforced up to fasli 1320; and the figures I have given show how signally that penalty failed to meet the purpose. To continue to levy not more than half the rate or $1\frac{1}{2}$ times the rate, instead of being a deterrent would only be an encouragement to those that take water without permission.

"Now in this matter of imposing a collective penalty we are only following precedents. It must not be supposed that we are doing anything unusual or what is not recognized elsewhere. It is recognized not only in the case of irrigation but in other departments of life and in other countries but I need not do more than refer to what is done in other Provinces of India. There you will find that the law on the subject is very clearly laid down and is much more stringent than anything that is practised here. I will read from the Burma Act on the subject. That lays down in section 40-C., 'If water is taken from a canal in 'an unauthorized manner, the person on whose land such water has flowed, if such 'land has derived benefit therefrom, shall be liable to the charges made for such 'use, unless and until the person by whose act or neglect the water has been so 'taken is ascertained.' Then section 41 says: 'If water supplied through a water-'course be used in an unauthorized manner, the person on whose land such water has 'flowed, if such land has derived benefit therefrom, or if such person is not ascertained, 'or if such land has not derived benefit therefrom, all the persons chargeable in 'respect of the water supplied through such water course, shall be liable, or jointly 'liable as the case may be, to the charges made for such use, unless and until the 'person by whose act or neglect such use occurred is ascertained.'

"Our practice is to levy additional charge on the lands to which the water is actually taken. From what I have read it will be seen that what is done in Burma covers our practice and goes beyond it. That is also what is legalized by all the other Acts in Northern India. From what I have read it will be seen that those

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enactments provide that, if a person who takes water cannot be ascertained, or if the land to which the water is taken has not been benefited, then all the persons who are chargeable for water from that particular source of supply are liable. That is to say, as we should put it in our Madras terminology, all the holders of the wet *ayakat* under that particular source will be liable. What we do in the Periyār tracts is to levy additional cess on those to whose lands the water is taken and not on others.

"It is a simple thing, I think, for these landholders to help us to avoid this unpleasant necessity, if they would aid us in putting a stop to this unauthorized taking of water, and if they would come to our assistance and prevent the breaching of banks, the interference with masonry works, the breaking of sluices and locks – if they would do that, then the offences would be reduced to a minimum and there would be no need for any such penalty as the Honourable Member complains of.

"There is only one further point to which I would refer, that is, with reference to the extent of the penalty, namely, the limit which the Honourable Member wishes to adopt of $1\frac{1}{2}$ times the water-rate. That has, as I have said, been found to be utterly inadequate. The water-rate in the Periyār tract is Rs. 5 for a wet crop and Rs. 8 for a sugar-cane crop. What is the value of a paddy crop *per* acre? Will Rs. 7–8–0 cover it? At present prices an acre of paddy will fetch much more than that—Rs. 40, 50 or 60. How can a charge of Rs. 7–8–0 be expected to be a deterrent penalty? Or in the case of sugar-cane, how can $1\frac{1}{2}$ times the cess have a deterrent effect? As regards paddy, we know that ryots who irrigate their fields from their own wells have to spend at the rate of Rs. 20 or 30 *per* acre before they can get water on to their lands. These Periyar ryots are saved the whole of that expenditure and the water is brought to their lands by the Government by direct flow without any intervention on their part. In the Kistna district ryots have now offered us, in addition to the water-rate, to pay Rs. 15 *per* acre, if they be allowed to pump water from our canals. I can multiply instances to prove beyond the possibility of controversy that anything like a penalty of Rs. 7–8–0 on a paddy crop would be altogether futile, if it be the object to deter those who are now taking water irregularly from doing so. I am unable to accept the resolution for the reasons which I have endeavoured to explain."

The Hon'ble Mr. M. Ramachandra Rao Pantulu:—"Your Excellency, there are some statements made by the Hon'ble Sir John Atkinson which are of a controversial character. But apart from that I should like to make a few observations generally in regard to the policy of levying penal rates by executive order. My Hon'ble friend Mr. Rama Aiyangar has made two proposals in his resolution. One is that the rules relating to the levy of water-rate under the Periyar irrigation system be so modified as to exclude the levy of penal water-rate on persons who are not responsible for interference with the irrigation works. The second portion of the resolution is that the penal assessment should be limited to $1\frac{1}{2}$ times the usual water-rate. Your Excellency, the question of penal water-rates is not merely confined to the Periyar. My Honourable friend is not quite accurate when he said that he was merely raising a local question in raising a discussion as regards the power of the Government to levy penal rates on persons interfering with the irrigation works. This is a complaint which is quite prevalent all through the deltas and all through the major systems of irrigation. I would appeal to the Government to look into the whole question of levying penal assessments and draw up definite and accurate instructions not only as to when those rates should be levied, but also the circumstances under which they should be levied. Your Excellency, the question of the liability to water-rates is now a matter for executive action in this Province. But that is a matter in which, at any rate speaking for myself I should think that the question of liability for the rates should be determined by an Irrigation Act. In this Presidency the whole question of levying additional water-rates—I do not like to call them penal rates—is now fixed by rules in the appendices to the Board's Standing Order No. 4. They contain a number of rules referring to the major system of irrigation, and generalizing them Honourable Members will notice the various circumstances under which these penalties can now be levied. The first case dealt with is where the water is taken after making a formal application but before its

acceptance. That is a matter in which I feel strongly and the resolution that stands in my name refers to that subject. There are cases where parties taking water unduly interfere with irrigation works and persistently disobey rules; but there are again other cases where certain sources are specified for irrigation and where water is taken from some sources other than those set apart for the lands. In all these matters the rules framed by the Board of Revenue under the Water-Cess Act lay down the penalties that could be levied by way of additional water-rates.

"In regard to the grounds of liability we have no legislative enactment in this Presidency setting out the circumstances under which these additional water-rates could be levied. I am glad that the Hon'ble Sir John Atkinson has referred to the Burma and Bombay Acts. It will be seen by Honourable Members that the express provisions of these Acts, especially the Bombay Act, are very clear. That Act states in section 44 the circumstances under which the additional water-rates should be levied. There they deal with the question of the water-rates under three heads—the normal rate, the occasional rate and the percolation rate. As to the second class of rates, the grounds of liability upon which such rates should be levied are clearly stated in the Act. Sir John Atkinson also read a portion of the Act which laid down that unless a person cannot be identified the additional water-rate imposed for taking water without authority or from improper sources cannot be levied from persons who have benefited by the irrigation. It seems to me, Sir, that is the crux of the whole question. In the present case it has not been stated that any attempt is being made by the Public Works Department officers first of all to identify the persons who are guilty of the breaches of the law, whereas in Burma and Bombay and Northern India, the Acts clearly say that the penalty can be levied from persons benefited by the irrigation only when the person concerned cannot be identified. That is the question raised in the Hon'ble Mr. Rama Aiyangar's resolution and his suggestion is that the water-rate should be levied not from the persons who have benefited by the irrigation but who had no direct interference with the works but from the persons actually concerned. The existing rules on the subject which are embodied in the Standing Orders of the Board of Revenue do not contain any direction to any official of the Government either in the Revenue Department or in the Public Works Department that the first person from whom this additional water-rate is to be levied is the person who is actually guilty of the violation of these rules. That is a point which is rather in favour of the contention of my Honourable friend than against him. Some of the Irrigation Acts of the other Provinces clearly contain the provision that in default of persons who cannot be identified the water-rate should be levied from persons who are benefited by the irrigation. But there is no such rule in Madras. The rules here contemplate the category of cases where there has been benefit, even though no identification of the person that is actually concerned is attempted; the water-rate can be levied from all the persons who hold land under any particular sources. That seems to be the whole point. So far as the Irrigation Acts of the other Presidencies are concerned, they lay down specifically that the penalty should be levied from the persons, where they are identifiable, who are really guilty of these transgressions, and in the second case from persons who are benefited by the irrigation where the original offender is not identified; and thirdly and lastly from persons holding lands under the particular source only in default of the first two. All over the country the cry has been that no attempt is made by the officers of the Public Works Department or the revenue officers to trace first of all the offenders concerned. Under the circumstances, if a distinct direction is given in these two respects, a considerable amount of discontent would disappear. I think my Honourable friend will not say that no penalty ought to be levied in all cases. Under all the deltas there is a strong demand for water at certain periods; and whatever may be the penalty the ryots would do what they can to get it, unless the original arrangements for supply are themselves satisfactory. Therefore, the attempt of the Government must be, as far as possible, to remove the complaints with reference to the supply of water, and secondly to so modify the regulations or rules which are framed under the Irrigation Cess Act and fix the liability upon the proper party. The officers of the Government should first trace the offenders and then resort to other persons who ought to be held liable.

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"There is one other matter to which I should like to make a reference, and it is the duty of the Government and its officers to supply water. As it is, I have not been able to see any orders issued by the Public Works Department or the Revenue Department stating the circumstances under which the supply could be cut off or the supply might be diverted, whereas Honourable Members will find elaborate directions in the Irrigation Acts of other Presidencies showing the circumstances under which the Public Works Department officers might do so. I wish only to read one portion of the section dealing with this matter: 'The canal officer cannot stop—'."

The Hon'ble Sir JOHN ATKINSON:—"I rise to a point of order. I do not think that this is relevant to the resolution before the Council."

The Hon'ble Mr. M. RAMACHANDRA RAO PANTULU:—"In other Provinces it is clearly laid down that canal officers cannot improperly cut off the supply of water. If the causes for the short supply of water are removed, much of the discontent in reference to this levy of additional water-rate would disappear. At the present time it seems to me that it is absolutely no check to levy the penal water-rate. It may be 20 or 30 times the usual rate; but it is certain that at times, whatever may be the rules, the ryot would help himself unless proper arrangements are made for the proper supply of water and he is kept informed of the arrangements made. To this extent I give my support to the first portion of my Honourable friend's resolution that persons who are not responsible for interference with irrigation works should not be penalized. It is a complaint which is very common in the Gōdāvari and the Kistna deltas, and I think that the whole question of the penal water-rates should be re-considered by the Government."

His Excellency the PRESIDENT:—"I assume that you second the resolution."

The Hon'ble Mr. M. RAMACHANDRA RAO PANTULU:—"Yes. I second it"

The Hon'ble Diwan Bahadur V. RAMABHADRA NAYUDU, Zamindar of Doddappanayakkanur:—"The non-official Honourable Members have been put in possession of the Government Order No. 684, Revenue Department, dated 7th March 1913, where the Government passed orders on the question of giving notice to ryots of their liability to pay enhanced water-cess for irregular irrigation. This order is the outcome of an interpellation put by the Hon'ble Mr. Sambandha Mudaliyar last year. It speaks to the high-mindedness of the Government and it illustrates the fairness with which the Government want to deal with the ryots. While such is the case with reference to the order just issued, the practice that is prevailing with regard to the Periyār tracts is quite different. The series of questions which I put to the Government have not elicited answers which would give satisfaction to the ryots affected by the levy of penal assessment. It has been stated by the Hon'ble Sir John Atkinson that the ryots have not co-operated with the engineering department in detecting cases of the breaking of locks and other things. I brought to the notice of the Government last year that a village official was suspended, because he was not able to find out who were the real persons that carried away the water. It is not possible in a village to find out the real person who steals the water at dead of night. After hard labour it is not possible for the ryots to arrange night patrols amongst themselves. When the Government have watchmen, I do not see why the ryots should be called upon to depute their watchmen. I have heard it said by many a ryot there that they would be quite prepared to contribute in the shape of assessment a portion of the additional cost of these watchmen. It seems to me to be the duty of the engineering department to increase the number of watchmen at the time of scarcity and to place them near the sluices where water can be easily stolen. If that is done, I do not think that the thefts which are now committed wantonly by some persons who have some grudge against some other co-pattadar would continue to exist. I know of a case where the watchman himself broke open the locks of the sluice and foisted the whole blame upon innocent persons. I know of a case where penal assessment was levied even after the harvest was over. After the harvest was over some water was taken by some of the ryots clandestinely during the night; and the person who had harvested his field was asked to pay the penal assessment. Things

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of this kind are always occurring and it is not possible for the ryots to give that kind of co-operation which the Government expect of them. It is high time that the Government issue orders to the engineering department to increase the watchmen establishment to guard the sluices, instead of making the innocent ryot pay heavily for the fault of other persons who steal the water at dead of night."

The Hon'ble Rao Bahadur V. K. RAMANUJACHARIYAR :—" My friend the Hon'ble Mr. Rama Aiyangar referred to cases where a high level channel takes off from the ordinary channel. At the point where it is taken a mud dam is put up by the owners of lands under the high level channel. The Government might punish all the landholders under the high level channel, but the landholders under the lower level channel ought not to be punished. That is what he meant. Taking this view I support the first portion of his resolution."

The Hon'ble Mr. T. V. SESHAGIRI AIYAR :—" I should not have intervened at this stage but for the fact that the proposition enunciated by the Hon'ble Sir John Atkinson makes it impossible for an honest ryot to take water at all. Unfortunately I happen to be a ryot myself, may be an absent ryot, and, if some of the propositions mentioned by the Hon'ble Sir John Atkinson were carried out, it would make it impossible for us to go on. As regards the collective levy of penal assessment even because one of them has taken the water, the Hon'ble Sir John Atkinson states that is the rule elsewhere. The Hon'ble Mr. Ramachandra Rao has rightly drawn attention to the fact that the rule is never enforced, unless the Government say that they are unable to find out the person who steals the water. We have similar example in the case of the Police Department. This is as it were a punitive assessment system like the punitive police system, where you find that somebody has stolen something in a particular village and because you are unable to trace the man even after some time you think it right to impose what is known as the punitive police. This comes to the same thing. I think that every endeavour should, be made by the Government to find out who the culprit is; and until then the collective punishment of persons who have not taken part in the stealing of the water ought not to be resorted to by the Government, and I think every endeavour should be made to stop that practice.

" The other matter to which I shall make reference is this. The Hon'ble Mr. Rama Aiyangar asks that if you are going to continue the penal assessment you should make it one and a half times the usual rate. The Hon'ble Sir John Atkinson says that it cannot be done. He says that persons who take water will be getting so much more benefit and consequently he would like that the Government itself should come in for a portion of the benefit that the persons who have taken the water get. Now, my Lord, suppose an application has been made to the Hon'ble Sir John Atkinson by a person to give this water, what would he be entitled to get? He would be entitled to the water-rate of Rs. 5; but if there has been stealing and taking away of this water, I think he should get one and a half times more than he would be ordinarily entitled to get if he had taken the water, say, with permission. You know that these ryots take the water stealthily because they have not the opportunity of going to the Collector at once and getting his permission to take water. They take it because it is absolutely necessary for them to have the water before they could, in the ordinary course of things, get the permission of the Collector. It is only under very extraordinary circumstances they resort to this practice. Although the Government would be ordinarily entitled to the water-rate which they fix at Rs. 5, if the ryot has the misfortune of taking water without permission, another half rate should be levied from him. I do not think you should insist that anything more than that should be claimed especially in a case where you are collecting collectively from other persons for the fault of a man who is not connected with those persons. In these circumstances, it seems to me, my Lord, that the proposition moved by the Hon'ble Mr. Rama Aiyangar is a very reasonable one and should be accepted by the Government."

The Hon'ble Mr. A. BUTTERWORTH :—" The debate has been proceeding on the assumption that the Government have been in the habit of charging penal water-rate

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collectively even in cases where they know the culprit who has caused damage to the work. I should like some instances to be cited. In my experience this has never occurred. Collective water-rate is charged only when we cannot find out the person who has done the mischief. If the culprit is discovered, he is charged and he alone."

The Hon'ble Mr. L. M. WYNCH :—" Your Excellency, I have only a few words to say on this resolution. It has been pointed out in the remarks that fell from one or two Honourable Members that, instead of levying additional charge by way of penalty to stop this taking of water irregularly, the culprit should be discovered. But as the offence usually takes place at night, discovery is almost impossible in spite of the fact that there is already in the Periyar tract a large staff employed to watch the irrigation works. As regards the rules reference has been made to their not being sufficiently definite. The rules lay down: 'Water is said to be irregularly taken for 'irrigation from a Government source or work to any land—

'(*a*) when it is taken to such land without the permission of any officer 'authorized by Government to grant such permission, or

'(*b*) when it is taken contrary to the orders of any authority authorized to 'give such orders, or

'(*c*) when it is taken in breach of any rule or regulation directing from what 'source or under what conditions water may be taken to such land.'

" These rules seem to be sufficiently clear and sufficiently definite.

" As regards the water-rate charged, the rules issued for the levy of water-rate in the Periyār tracts in 1907 were published for general information. The extra charge then imposed was half the penal rate except in the Periyakulam taluk where an extra charge not exceeding four times the water-rate might be imposed. In the Periyakulam taluk the additional penalty was authorized, because the water-supply was primarily intended for the benefit of lands in other taluks lower down the channel, but from the report received from the Collector of Madura it would appear that the penalty of four times the water-rate was found entirely inadequate to stop the taking of water in the Periyakulam taluk."

The Hon'ble Mr. K. RAMA AIYANGAR :—" I think the attitude taken by the Hon'ble Sir John Atkinson has been very unsympathetic. My submission is that it is more or less based on the reports he has received and which he read out here. I can assure the Honourable Member and this Council that persons that make this complaint are not inferior in status to any one that writes a report of the kind referred to. The matter has been expressly brought before the Collector by very respectable and leading gentlemen of Madura and Rāmnād. They brought it to the notice of the Executive Engineer and the officers of the Public Works Department and have drawn out from them the statement that much of it is due to the present condition of the arrangement in the Periyar tracts. In the report it is stated that the ryots in every village would be prepared to commit anything for any assessment that may be levied. That is a common charge ordinarily made. I should not have expected that from the officers who have not been able to answer the charges before the Collectors when the leading ryots came personally into contact with them and asked them to explain. One patent fact that I referred to is that, while the Government have sold these lands as double crop lands and assess them at compound rate, they have reduced the area of double crop lands because they found the water would be insufficient for the lands already sold. They actually find that only one-fourth of the area was cultivated with second crop because of the want of supply, and because of the inadequacy of the arrangements. It is a clear fact that it ought not to be attributed to the ryots that these difficulties arose. As I said it is connected with another subject which, as I explained before to this Council, the Honourable Member has apparently been trying in vain to refute. If the arrangements there are defective, if the engineering department itself permit putting up such bunds in some cases, if they have to regulate the supply only by putting up bunds, does the question not arise whether it is not time now that a levy of ten times the water-rate or anything like that cannot

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be thought of at the present moment? Is it not a patent fact for the Government to consider that till the arrangements are properly made it is only proper that the rules which were in force in 1908 should continue? Has there been an answer given by the Government that the defects have been remedied? Has any attempt been made to remedy the defects in the existing arrangements? If nothing has been done, if no vigorous steps have been taken to remedy them by the Public Works Department, can we say that the rules made in 1908 should be modified in 1910?

"It has been pointed out by the Hon'ble Sir John Atkinson that 11,000 acres were found to have been irregularly irrigated in fasli 1320; that up till that fasli there was an increase in such area of irregular irrigation; but that since the alteration of the rules it went down to 10,000. I think the premises are not correct in that matter. The Honourable Member has not stated that in 1320 this extra assessment of ten times the ordinary rate was enforced. He does not say that. The only thing that has been done is that when one man commits the mischief and there are about 100 pattadars in that irrigation area, there is a levy made after the close of the fasli without inquiry and without notice to ryots, asking each of these men to pay so much. In that specific form I put it and I do not think the answer has been given. It is a patent fact that cannot be denied and the report that has been so strong in condemning the ryots has not said what has been done. No attempt has been made to find out the culprits. Let us know the steps that were taken to find out the culprits. If they had taken steps, I could understand that before the crop is gathered they should levy the assessment.

"Another fallacy in the argument can be seen. To say that when a man takes water he should be charged ten times the water-rate when he holds the land which is entitled to that water is a fallacy, we can patently see. It is not a strange field that he takes the water to. The land is one which is sold by the Government and it is land for which they are bound to supply water and it is entitled to have the water throughout for the crop. Another man whose land is in a higher level takes the water from the sluice which would not irrigate his land, and the argument is advanced that the man who has also in the course of that irrigation benefited or, say, to whose lands also the water reaches should be liable to pay ten times the assessment which he has to pay under the law. If he has purchased the property agreeing to pay Rs. 8 or 10 compound rate, his land is entitled to water for the whole season of eight months both for the first and the second crop. If some other man commits mischief I cannot understand the force of the argument which says that to prevent some other man from doing mischief, these men who are entitled to water for the whole season should be mulcted in ten times the assessment. I do not think that is the attitude that this Council should maintain. I am myself no landholder in the Periyār area, but I have heard complaints in a good many cases and I know people feel it as a great grievance. I do not know who the officer is who made the report. But I must say that the whole system is to be worked by a sympathetic officer. Rao Bahadur Ramalinga Aiyar and even Mr. deChazal who were in charge at the beginning of the project showed much sympathy, and unless sympathy is shown the people cannot get along. I do not think therefore that the Government ought to enforce the rules strictly, but see that the distribution is regulated properly. Before they begin to enforce strict principles according to the higher standard of justice, the Government must show that they have taken the steps necessary to see that the channels are all properly laid down and that all lands are supplied with water. If the Government cannot get the same land irrigated which they sold as double crop land without bunding up, and if one ryot bunds up and takes the water, are all the others bound to pay for what one man has done? My submission is that the position is quite clear. It would not be proper in the present state of things to allow this thing to continue.

"The Hon'ble Sir John Atkinson read from the Burma rules. Rules of that kind, if enforced in the Periyār area, would not allow of this charge to be levied very largely. They could not say that they could not find out the culprit, because no attempt has been made to find him out. Apparently because the rules are vague and no instruction is given to these officers to find out the culprit, they do not

(Mr. Rama Aiyangar ; Sir John Atkinson ; the President ; Mr. Ramachandra Rao Pantulu.)

take the responsibility very often to do so. My information is—and it is also supported by various petitions sent to me—that the lascar says that the lands are irrigated and the sub-overseer in charge says that the lands are irrigated and that is not brought into account till the end of the fasli ; no notice is given till after the close of the fasli and then the ryot gets a demand, not even a previous notice for the demand, but a demand asking for the payment of Rs. 80 or Rs. 90. That is what is done. I do not think that has been gainsaid or could be gainsaid. In these circumstances I would certainly impress upon the Government the necessity for making inquiries into the matter and to frame rules which will not work hardship to the people in the present state of the Periyār project."

The Hon'ble Sir JOHN ATKINSON :— "The point to which the Hon'ble Mr. Rama Aiyangar has addressed himself is particularly in regard to what he calls the faulty arrangements for the distribution of water in the delta. That is quite a different subject from the subject of the resolution. He urges that the arrangements for the distribution of water in the delta are not satisfactory and therefore he proposes that a man—let us call him *A*—shall be allowed to take the water which ought to flow to another man whom we may call *B* for a penalty or payment which is no penalty at all. It seems to me that there is no connection between the two propositions. Whether the arrangements for the distribution of water in the Periyār system are satisfactory or not, I do not know. It is a young system. It may be that the arrangements are not as yet as perfect as they could be ; but that surely does not justify people in taking water to which they have no right, thereby depriving their neighbours who have a right to it. When a man takes to high level lands water which should have flowed to those on a lower level, are we to stand by and see him taking the water to the higher level lands without making any attempts to stop him? Surely that is not the attitude which the Government ought to adopt. It is our duty to see that the water goes to those who have the right to it, and, so far as we can, we endeavour to perform that duty by the only means which we find suitable and efficacious.

"The Hon'ble Mr. Ramachandra Rao suggested an alteration in our rules. He said that we should in the first place hold responsible the man who takes the water. That is what is being done. Endeavours are being made, in spite of anything that may be said to the contrary, to find out who is the man that takes the water irregularly. The Hon'ble the Zamindar of Doddappanayakkanur was good enough to tell us that he knew of cases in which Public Works Department subordinates and lascars had broken the locks. I wonder if he gave information of that. If he did not we have an instance of the difficulty which is involved in trying to find out the true culprits in these matters. At any rate it is the case that we do try to find out who is the man responsible. Failing him, who is responsible? The Hon'ble Mr. Ramachandra Rao says not only persons who are benefited but all those persons who hold under the wet *ayakat*. Any such rule would be more drastic than what we have at present. We may be prepared to consider the question of introducing it. But at the present time the Government must adhere to the position they have taken. The duty rests upon them to see that the water in the Periyār tract is made to go as far as possible, and that it is not used improperly, and the only way in which we are able to effect that, or the best way according to our experience, is by this means of imposing additional water-rate. I must oppose this proposition."

His Excellency the PRESIDENT :—"Does the Honourable gentleman wish me to put the resolution?"

The Hon'ble Mr. K. RAMA AIYANGAR :—"Certainly."

The Hon'ble Mr. M. RAMACHANDRA RAO PANTULU :—"May I request your Excellency to put the resolution in two parts."

His Excellency the President having acceded to the request made and put to the Council the first portion of the resolution relative to the exemption from penal charges of persons not responsible for inteference with the irrigation works, the proposition was lost.

(Mr. Rama Aiyangar.)

The Hon'ble Mr. K. Rama Aiyangar having demanded a poll, it was taken with the following result, 20 voting for and 22 against the resolution :—

For	*Against*
The Hon'ble Dr. T. M. Nair.	The Hon'ble Sir John Atkinson.
,, Mr. T. V. Seshagiri Aiyar.	,, Mr. P. S. Sivaswami Aiyar.
,, Rao Bahadur B. Narasinheswara Sarma.	,, Sir Harold Stuart.
,, Mr. M. Ramachandra Rao Pantulu.	,, Mr. A. G. Cardew.
,, Mr. A. S. Krishna Rao Pantulu.	,, Surgeon-General W. B. Bannerman.
,, Mr. P. Kesava Pillai.	,, Mr. R. B. Clegg.
,, Rao Bahadur A. Subbarayalu Reddiyar.	,, Mr. L. M. Wynch.
,, Mr. B. V. Narasinha Aiyar.	,, Mr. A. Butterworth.
,, Mr. K. P. Raman Menon.	,, Sir Alfred Bourne.
,, Rao Bahadur V. K. Ramanujachariyar.	,, Mr. C. A. Smith.
,, Mr. K. Rama Aiyangar.	,, Mr. H. E. Clerk.
,, Mr. K. R. V. Krishna Rao Pantulu.	,, Mr. C. R. M. Schmidt.
,, Diwan Bahadur V. Ramabhadra Nayudu.	,, Mr. L. Davidson.
,, Mr. C. V. S. Narasinha Raju.	,, Mr. F. H. M. Corbet.
,, Mr. K. Chidambaranatha Mudaliyar.	,, Mr. H. F. W. Gillman.
,, Mr. V. Kunhiraman Nayanar.	,, Diwan Bahadur L. D. Swamikannu Pillai.
,, Mr. T. Zain-ul-abidin Sahib.	,, Mr. A. D. Jackson.
,, Rao Bahadur P. C. Somasundara Chettiyar.	,, Mr. R. M. Savege.
,, Mr. V. S. Srinivasa Sastri.	,, Mr. E. F. Barber.
,, the Raja of Dharakota.	,, Sir Francis Spring.
	,, Mr. T. Richmond.
	,, Mr. A. Muirhead.

The second part of the resolution relative to the limitation of penal assessment to $1\frac{1}{2}$ times the usual water-rate was next put to the vote and lost.

At this stage the Council adjourned until 11 A.M. on Thursday the 3rd April 1913.

L. DAVIDSON,
Ag. Secretary to Government, Legislative Dept.

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NOTES. Page 11

P. W.D. (Irrn.)

D.9

8 Please see Note d/ 31 3 13 on pp 4-5 supra. No further action is necessary. A draft order recording the correspondence is put up.

[illegible] 29. 4. 13 [illegible] 29/4 [illegible] 1/5/13 Issue.

[illegible] 2/5/13

HD [illegible] 8/5

PUBLIC WORKS DEPARTMENT,

IRRIGATION BRANCH.

Tabling Abstract.

Resolution No 2 moved at the meeting of the Legislative Council held on 2nd April 1913

Recording papers connected with — re: Levy of water rate under the Periyar system

Cross References.

Read the following :—

Offl memo to the EE Madura dn + Supg Eng. VI Circle ROC No 3939/13 dy 25th March 1913

Telegram to the Ex. Eng. Madura dy 28. 3. 1913

Telegram from — do — dy 29 3 13

Letter from — do — No 3935E/29. 3 13

Circulated to

ORDER—No. 2649, dated 9. 5. 13

ms

Recorded.

[illegible] 1/5/13 [illegible] 3/5/13

GW 29. 4. 13